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Submitted at the Public Hearing on November 17, 2004

Department of Natural Resources Regional Office  
ATTN: Mark Harings, DNR ECA Program Manager for 3M Co.  
1300 W Claremont Ave  
Eau Claire WI 54702

RE: Proposed Amendment to the October 1, 2002 Environmental Cooperative Agreement  
between DNR and 3M – Menomonie, WI.

Dear Mr. Harings:

Thank you for the opportunity to comment on the DNR's preliminary determination to approve an air pollution operation and construction permit for 3M Co. of Menomonie. As stated in the public hearing notice, this is a "proposed amendment to the October 1, 2002 Environmental Cooperative Agreement between DNR and 3M -- Menomonie. The amendment includes language that establishes a facility-wide emissions cap as well as environmental management commitments beyond those ordinarily required by DNR."

The Sierra Club objects to the proposed amendment.

The Sierra Club is concerned that the Amended Agreement may not provide adequate public health protection to the community because future pollution levels are not clearly stated. Transparency is a goal of the Environmental Cooperative Agreement Program. We request answers to the following questions:

- what are the public health consequences of the Amended Agreement,
- what is the expected level of pollution for the two additional air discharge points (to be determined),
- how are these new air discharge points covered by the proposed reduction goals,
- what is the baseline year for reductions under the Amended Agreement,
- when will 3M Co. achieve the reductions under the Amended Agreement,
- are the proposed reductions based on actual emissions, and
- Are the so-called "environmental management commitments beyond those ordinarily required by DNR" adequate to protect and improve public health conditions in Dunn County and the local community.

#### DNR Response:

- While data regarding the public health consequences of the Environmental Cooperative Agreement with 3M Menomonie facility are not available, the information and reportable air pollutants, solid and hazardous waste disposal and generation, water quality discharge information can be obtained from the various tracking systems the DNR uses along with EPA. Information on the specific facility can be obtained from the DNR FACT System

and through requests from the WDNR Air Management Program and in the 2003 3M annual report required by the Environmental Cooperative.

- While the exact impact of any additions to the facility can not be determined, the requirements and limits established in PART III of the Air Pollution Control Permit (Part III) are more stringent than the limits that the facility has previously operated under.
- Any future projects at the 3M facility will take into account the facility's commitments to reductions of Volatile Organic Compounds and Hazardous Air Pollutants, and will be reported on Annually. Annual reports will provide information on the facility's Environmental Management System (EMS) and the efficiency with which the Systems can deal with the Companies performance.
- The baseline comparisons will be established for the 2000-reporting year.
- The reductions stated in the ECA are part of the objectives and goals established under their EMS process. The stated goals are for the duration of the ECA five-year period ending in October 2007.
- The proposed reductions are based on actual reportable emissions per product produced.
- The ECA is a test of whether a well designed EMS can obtain additional reductions once a company has dealt with the more easily addressed "Low Hanging Fruit". While an EMS does not guarantee that a company will see continual improvement with environmental results, it is a way for a company to track and identify areas of improvement while making important financial and marketing gaining decisions. 3M is currently well below the thresh-holds of their existing permit. There are very few major companies (if any) that can guarantee no impact on the environment, at a minimum, 3M is saying that they will try very hard to continue to lessen the environmental impact of their decisions on the community.

#### A. DUNN COUNTY SUFFERS FROM POOR AIR QUALITY.

Unfortunately the DNR factsheet on this project does not set a context for the air releases in Dunn County or of 3M Company. The public has access to analysis of pollution data of the US EPA through the "Scorecard" website maintained by Environmental Defense. According to the Scorecard, air releases in Dunn County are above the 50<sup>th</sup> percentile compared to the rest of Wisconsin. When considering air releases of recognized developmental toxicants, Dunn County ranks in the 90<sup>th</sup> percentile, among the worst in the state.

The following table compares health threatening pollutants in Dunn County with the major pollution source, 3M Co.

#### **3M Pollution in Dunn County all quantities in pounds data from 2003 DNR Air Emissions Inventory**

<b>Pollutant</b>	<b>Dunn County Total</b>	<b>3M Emissions</b>	<b>% of Dunn county pollution from 3M</b>
TOLUENE	98,474.00	93,274.00	94.71942
METH ETH KET	15,468.00	8,789.00	56.82053
VOC	457,018.14	112,341.35	24.58138

CO	294,780.29	7,413.39	2.514887
PM10	67,397.86	1,210.12	1.795487
NOX	2,684,955.78	8,899.62	0.331462
PM	244,829.43	677.09	0.276556
METHANE	35.82	0.02	0.055835
AMMONIA	551.51	0.23	0.041704
SO2	278,590.71	81.98	0.029427
SULFUR TRIOX	374.6	0.08	0.021356
PM2.5,FLTRBL	21,488.99	0.07	0.000326

These chemicals have significant health impacts. According to the US EPA:

Toulene: Long-term exposure to low-to-moderate levels of toluene can cause tiredness, confusion, weakness, memory loss, nausea and loss of appetite, and hearing loss.

Methyl ethyl ketone: Short-term exposure to high concentrations of methyl ethyl ketone can irritate the eyes, nose and throat and cause headache, nausea, central nervous system depression and skin problems. Limited information is available on chronic effects of methyl ethyl ketone in humans from inhalation exposure.

The goal of the Environmental Cooperative Agreement should be to enlist the aid of existing companies and pollution sources to improve air quality by working to reduce Hazardous Air Pollutants (HAPs) and Volatile Organic Compounds (VOCs) that threaten human health. The table dramatizes the significant role of 3M Co. as the major source of Toulene, Methyl Ethyl Ketone and VOCs in Dunn County.

**Unless the Amended Agreement can demonstrate that there will be a significant improvement in air quality tied to protecting human health, the Sierra Club will not agree to regulatory flexibility that releases 3M Co. from substantive regulatory and public review of additional air discharge points.**

- **DNR Response:**

The Department appreciates your comment that the fact sheet does not include information on the over-all air quality in the surrounding community. This should be a consideration in any future fact sheet information. The Department is also aware of the stated health concerns put out by EPA as it relates to certain toxics. This may add to the reason to pursue such agreements with companies that have shown commitments and positive environmental results in the past. The Department has reviewed the information on 3M and feels that the Company has positioned themselves to try and deal with reductions of those constituents identified in the above report. Because the facility is not only set up to test new product, they also afford to test the new alternatives to those constituents of concern. This hopefully will result in long term environmental gains. Please keep in mind that the conditions established in Part III under the ECA is more restrictive than currently exists for the Company.

#### B. ADDITIONAL COMMENTS ON LEVELS OF POLLUTANTS:

1. The Sierra Club supports the Agreement language that sets a company goal to increase the pollution efficiency per product produced. However, such a goal must be coupled with a commitment to reduce the absolute amount of pollutants or else there is no improvement in air quality.

- **DNR Response:**

The Department agrees with your statement. Realistically, expansion or increased output usually means increases. What those increased pollutants are and the severity to impacts on health would be of major concern to the community and the Department. This is the reason a whole facility cap was established on the facility and the Department requires a separate annual report that addresses the issues that surround the ECA. The Department will be reviewing and 3M will be discussing the results of that report with the interested persons group annually. Also the agreement states that if the facility at anytime gets within 85% of the 2000 year baseline during any month, then the Department and the facility will meet to discuss the reasons or concerns.

2. The Amended Agreement switches 3M into the category of a synthetic minor for purposes of PSD (prevention of significant deterioration) rules by accepting a 249 Ton Per Year (TPY) VOC cap. While this is less than the 403 TPY in the current permit will allow, the table from the application shows that it is still 4 times what they currently emit, 66.08 TPY. The amendment allows 3M to add 2 additional air discharge points (to be determined). **Conceivably, these two additional air discharge points could quadruple current pollutant levels.**

**Table 2: 2001 Reported Emissions** (source: DNR CAER website)

<b>3M Division</b>	<b>Permitted Emissions (tons per year, TPY)</b>	<b>Actual Emissions (tons per year, TPY)</b>
TPTC (Tape Process Technology Center)	249	46.3
OSD (Optical Systems Division)	40	3.64
SF & C (Specialty Fibers & Composites)	96?	12.68
TCM (Traffic Control Materials)	16	3.46
<b>Total</b>	<b>403</b>	<b>66.08</b>

- **DNR Response:** While the Department agrees with your statement, we do not believe it is the intention of 3M Menomonie to reach such levels. Commitments to superior environmental performance lie way outside status quo. Any proposed projects by 3M will have the same scrutiny and pollution restrictions, or lower, than those found in current permits. The other answer to your comment would be to continue with status quo, which would allow the facility to emit more pollutants.

Additionally and more Specifically: The DNR does not limit actual emissions. DNR permitting activity sets an allowable amount of emissions. Previous permit review has found that the separate facilities (under current permit) are allowed to emit 400+ tons of VOC per year. How much of those allowed 400+ tons is actually emitted is purely a function of 3M's current production demands. Should 3M emit 300 actual tons of VOCs in 2004, current law would see no issue.

The current campus is not subject to PSD. Each division has previously been permitted and recognized as separate operating facilities under Title V and PSD. The CEA agreement and Title V operating permit brings these separate facilities together under one permit. It also places these

separate facilities under one comprehensive and more stringent emissions cap of 249 tons per year. If this CEA were abandoned, 3M would be allowed to operate and emit VOCs from their separate facilities that in total could reach over 400 tons per year. With the CEA and Title V permit in place, 3M can install more process lines. But with the CEA and Title V permit, 3M can never cross 249 tons of VOCs per year from all their divisions combined. With the CEA and Title V permit, all added process lines are automatically subject to the current emissions standards established in the permit, including MACT for hazardous air pollutants. Part of 3M's burden is that increased production will become impossible unless 3M can reduce the amount of pollutants emitted per product, a stated goal of this effort.

3. Under the current agreement, 3M already has monthly reporting in return for a commitment to:

- reduce VOCs per pound of good output by 25% from the year 2000,
- reductions solid and chemical waste per pound of good output by 25% from the year 2000,
- reductions of reportable TRI emissions per pound of good output by 50% from the year, 1999;
- doubling the number of 3P projects over the past five years (1995-2000), and
- other EMS and paperwork reduction tracking commitments.

The DNR website state that “the April 1, 2003 Performance Review shows 3M Co. is on target to achieve these goals.”

However, the following is not clear enough for members of the public to really understand what is proposed in future years:

1. When must the percentage reductions be reached under the Amended Agreement and are the reductions from actual emissions in 2004?
2. If 3M Co. is making a 25% reduction in VOCs, and they already had to make an earlier 25% reduction from 2000 levels, why is there only a 10% reduction in the VOC cap? It seems like DNR should require greater reductions in the cap.

#### DNR Response:

The reductions of 10% are a substantial gain considering 3M has already addressed some of the easier goals in the past. As further reductions are pursued the Department realizes that it becomes harder and harder for a company to obtain those goals. Outside substitution, they may never be obtained. Therefore, some of the goals may very well result from a less hazardous substitute. The reductions in the permit relate to overall reduction obtained by October 2007.

#### C. CONCERN ABOUT REGULATORY OVERSIGHT:

The Sierra Club urges the DNR to retain adequate oversight of companies and facilities participating in the Environmental Cooperative Agreement (ECA) Program and other regulatory relief efforts by the DNR. Environmental risks can be reduced and corporate benefits can result from encouraging companies to undertake Environmental Management Systems (EMS) and document efforts that go beyond compliance with state and federal laws.

But simply participating in the ECA Program does not guarantee that all is well. If a company is found in violation of environmental laws while in the ECA Program, there should be consequences to them beyond a settlement of the violation. They should be required to revert to more restrictive permits, give up any regulatory relief benefits, and reimburse the DNR for the costs they imposed on state agencies as part of ECA Program.

We are disturbed by evidence that other 3M plants in this region have been found by U.S. EPA to be in substantial violation of the law. The most recent violation, settled in October 2004, posed substantial health risks to workers and families in the surrounding community. This exposure was due to failure to adequately test, monitor and keep records of emissions of hazardous air pollutants. We worry that without adequate scrutiny, the public cannot be assured that 3M in Menomonie is not posing similar risks to the community.

For the record we are providing copies of U.S. EPA Region press releases concerning a very recent violation and three earlier hazardous air pollutant violations and related settlements.

- Oct. 26, 2004: 3M Co. plant in Cordova IL was assessed a \$27,500 penalty for, among other things, failure to adequately test, monitor and keep records of emissions of hazardous air pollutants, including methanol, toluene and methyl ethyl ketone from pharmaceutical manufacturing operations at the plant. Under the settlement, 3M agreed to complete a \$135,000 environmental project.
- Sept. 22, 2000: 3M Co. plant in Hutchinson MN signed a consent decree including a \$52,340 penalty under the Resource Conservation and Recovery Act for three counts of violations concerning storage of hazardous waste.
- Sept. 22, 2000: 3M Co. plant in St. Paul MN signed a consent decree including a \$38,596 penalty (reduced from \$44,635) under the Resource Conservation and Recovery Act for three counts of violations concerning management of hazardous waste.
- Sept. 22, 200: 3M Co. plant in Cottage Grove MN signed a consent decree including a \$7,150 penalty (reduced from \$7,780) under the Resource Conservation and Recovery Act for three counts of violations concerning hazardous air emission for tanks used to manage hazardous waste.

In a different example of a company participating in the ECA Program, WeEnergies reached a settlement with US EPA for a penalty of \$3.1 million and further agreed to clean up some of their dirty old coal power plants. The Sierra Club and other groups are contesting this settlement because it provides inadequate improvement of air pollution sources in highly urbanized areas of Milwaukee County near two violating plants.

#### **DNR Response:**

The Department is aware of the penalties you have mentioned above, however, none of these facilities, though associated with Project Companies, are included in the Environmental Cooperation Pilot Program. A review of the status of the 3M Menomonie facility was conducted prior to inclusions and discussions of allowing them to participate in the program. Also, any violation that has a direct impact to the environment and or health of the community carries the same regulatory and penalty weight as always.

The Department feels that the ECA will involve more contact with the company while reducing workload for the Department and the Company. 3M are still held to the same reporting requirements under the air management program and EPA. In fact, the ECA report is additional. In turn this should allow more transparency for the Department and the community through the interested persons group.

#### D. CONCERN ABOUT 3P PROJECTS:

The Sierra Club notes that part of the commitment by 3M Co of Menomonie is to double the number of Pollution Prevention Pays (3P) projects over that past five years. The following is from the April 1, 2003 Performance Review:

“Details: The goal is a total of 6 approved 3P program submittals by the end of 2005. Three approved projects were submitted in 2001. Therefore, at least 3 new projects ideas are needed in 2002-2005. “

We found no statements of any 3P program submittals made since the date of the April 1, 2003 Performance Review. It is nearly the end of 2004 and the timeframe is nearly exhausted to fulfill this commitment. We also could not find details on what are the 3P project results from the past five years. It is also unclear what commitments are required under this Amended Agreement

It is not clear how to interpret this lack of progress. Does this indicate that 3M Co. has failed to meet the commitment under the Initial Environmental Agreement? Or does 3M Co. intend to stretch the deadline for meeting this goal by simply rolling it into the Revised Agreement with a new deadline of 2009 or 2010? Either of these interpretations would be unfortunate. 3M Co. can do better than this.

The Sierra Club considers the ECA Program commitments to beyond compliance as **stretch goals** that benefit the local community and environment in ways that a simple permit process cannot achieve. As mentioned, Dunn County has substantial air quality problems. We recommend that 3M Co. commit to some real stretch goals that go beyond the proposed internal facility modifications and that will benefit the whole community.

#### DNR Response:

3M will be providing updates on the 3P progress in the 2004 report due in January. The progress on the 3P was shared during an interested person group meeting in which only 1 member participated.

#### E. CONCERN ABOUT VAGUE ENVIRONMENTAL BENEFITS

On Sept. 10, 2004, the Wisconsin Legislative Audit Bureau submitted its review of the Environmental Cooperation Pilot Program (ECPP) to the Joint Legislative Audit Committee of the State Legislature. The report is generally critical of the ECPP. With regard to the 3M agreement, the Audit points out (p.7): “The agreement remains vague in relation to other agreements in terms of specific company environmental improvement goals.” We concur.

#### DNR Response:

We concur and the scope of the first agreement allowed the pursuit of an amendment, which has recently gone through a 30-day public comment period.

Thank you very much for showing an interest in providing public comment to the Amended Agreement. While the Department feels that the conditions in this Amended Agreement meet or exceed all federal and state requirements, your feedback and comments will be considered. Also this document will be placed on the DNR ECPP website for yours and others to review.

Thank you for the opportunity to comment of the 3m Amended Agreement. Unfortunately, the Sierra Club cannot endorse this proposal. We urge the DNR to reject the proposal.

Please feel free to contact Caryl Terrell at 608-256-0565 with any questions. The Sierra Club expects the DNR to consult us concerning any further action on this project.

Best regards,

Caryl Terrell, Chapter Director, Sierra Club – John Muir Chapter

And

Barb Thomas, Chair, Sierra Club – Chippewa Valley Group

FAXED Separately: US EPA Press releases on 3M Enforcement actions.